REMARKS / ARGUMENTS

The above-listed claims are in reference to the March 3, 2005, amendments made under 37 CFR 1.111, which have been entered.

Status of Claims

Claims 1-13, 16-30 and 34-40, are pending in the application and stand rejected. Claims 14, 15 & 31-33 have been withdrawn from further consideration by the Examiner as being drawn to a non-elected invention and subsequently canceled by Applicant. Applicant has further canceled Claims 19 and 29, has amended Claims 1, 16, 17, 37, 39 and 40, and has added new Claims 41-42, leaving Claims 1-13, 16-18, 20-28, 30 and 34-42 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §103(a) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Claim Objections

Claim 37 is objected to because of an informality relating to missing punctuation.

Applicant has amended Claim 37 to correct for the missing punctuation as suggested by the Examiner, and therefore respectfully requests reconsideration and withdrawal of this objection, which Applicant considers to be obviated.

Rejections Under 35 U.S.C. §103(a) (via §102(e))

Claims 1-6, 9-13, 16-30, 37 and 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Okerlund et al. (U.S. Patent Publication No. 2003/0187358 A1, hereinafter Okerlund) in view of Ockuly (U.S. Patent No. 6,458,107, hereinafter Ockuly).

Claims 1-6, 9-13, 16-28, 30, 37 and 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Keidar (U.S. Patent No. 6,650,927, hereinafter Keidar) in view

of Subramanyan et al. (U.S. Patent No. 6,782,284, hereinafter Subramanyan), Chen et al. (WO 96/10949, hereinafter Chen) and Ockuly.

Claims 7, 8, 34-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Okerlund in view of Ockuly as applied to Claims 1 and 16 above, and further in view of Liu et al. (U.S. Patent Publication No. 2003/0166999 A1, hereinafter Liu).

Claims 7, 8 and 34-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Keidar in view of Subramanyan, Chen and Ockuly as applied to Claims 1 and 16 above, and further in view of Liu.

Claims 38 and 39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Okerlund in view of Ockuly and Liu.

In view of the manner in which the foregoing references were used against the claims of the instant application, Claims 29 and 38-39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Okerlund in view of one or more other references. Thus, in order for the rejection of Claims 29 and 38-39 under 35 U.S.C. §103(a) to stand, Okerlund must be applied.

In view of the Okerlund reference constituting prior art only under 35 U.S.C. §102(e), the rejection of Claims 29 and 38-39 may be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same persons or subject to an obligation of assignment to the same persons. MPEP §706.02(l)(1) and §706.02(l)(2).

Additionally, for an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

In view of the foregoing, Applicant traverses all rejections under 35 U.S.C. §103(a) for the following reasons.

Applicant has canceled Claim 29 and has amended independent Claims 1 and 16 to include at least the limitations of Claim 29.

Additionally, Applicant has provided herewith a statement concerning common ownership, at the time this invention was made, of the instant above-identified Application and the Okerlund reference, thereby disqualifying Okerlund from being used in a rejection under 35 U.S.C. §103(a) against the claims of the instant above-identified application.

In view of the foregoing amendment and statement, Applicant submits that without Okerlund the other references cited by the Examiner are insufficient in their teaching of each and every element of the claimed invention where the combination performs as the claimed invention performs, and therefore are insufficient to establish a prima facie case of obviousness.

As such, Applicant respectfully submits that the obviousness rejection based on the non-disqualified References is improper as the non-disqualified References fail to teach or suggest each and every element of the instant invention where the combination performs as the claimed invention performs.

In view of the foregoing, Applicant submits that Okerlund is disqualified as a prior art reference, and that the non-disqualified References fail to teach or suggest each and every element of the claimed invention and disclose a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 07-0845.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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